

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

UNITED STATES OF AMERICA)
)
) Case No. 1:11CR00033
)
)
v.) **ORDER**
)
)
TIMOTHY SHEPHERD,) By: James P. Jones
) United States District Judge
Defendant.)

For the reasons set forth in the Opinion accompanying this Final Order, it is ORDERED that the Motion to Dismiss (ECF No. 37) is GRANTED; the defendant's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C.A. § 2255 (ECF No. 22) is DENIED; and the § 2255 proceeding is stricken from the active docket of the court.

Based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right, a certificate of appealability is DENIED.

ENTER: April 25, 2013

/s/ James P. Jones
United States District Judge